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BENIHANA NATIONAL CORP.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

13 TETSUO AKAOSUGI, HIEU NGUYEN,  
on behalf of themselves and all others  
14 similarly situated,

15 Plaintiffs,

16 v.

17 BENIHANA NATIONAL CORP.,

18 Defendant.  
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CASE NO. 3:11-CV-01272 WHA and  
CASE NO. CV12-03411

~~PROPOSED~~ ORDER GRANTING  
ADMINISTRATIVE MOTION TO  
RELATE CASES

Date: TBD  
Time: TBD  
Judge: Hon. William H. Alsup  
Ctrm.: 8, 19<sup>th</sup> Floor

Defendant Benihana National Corp's unopposed Administrative Motion brought pursuant to Local Rule 3-12, for an Order finding *Romeo Cabe, et al. v Benihana National Corp.*, Case No. CV12-03411 (removed from Santa Clara County Superior Court Case No. SCV 245198) ("*Cabe*") to be related to *Akaosugi, et al. v. Benihana National Corp.*, Case No. 11-CV-01272 WHA ("*Akaosugi*") was considered by this Court. Based on all briefs, evidence and pleadings in both actions, and for good cause appearing, the Court finds:

1. The *Cabe* action arises out of the same facts and circumstances and involves the same parties as *Akaosugi*. See Local Rule 3-12(a)(1) (the actions concern substantially the same parties, transactions and events);

2. Given Judge Alsup's prior investment of time in more than a year of proceedings, including disputes regarding BNC's ability to take the depositions of the *Cabe* declarants/plaintiffs, substantial class certification briefing and multiple hearings in *Akaosugi*, and because it would be likely that there would be an unduly burdensome duplication of labor and expense or conflicting results if the *Cabe* action was conducted before a new and different Judge or Magistrate, it is appropriate to order *Cabe* related to *Akaosugi*. See Local Rule 3-12(a)(2); and,

3. The Court, therefore, finds that *Romeo Cabe, et al. v Benihana National Corp.*, Case No. CV12-03411 is related to *Akaosugi, et al. v. Benihana National Corp.*, Case No. 11-CV-01272 WHA and orders *Cabe* immediately assigned to Judge Alsup for all purposes.

**IT IS SO ORDERED.**

DATED: July 23, 2012.

William Alsup  
UNITED STATES DISTRICT JUDGE

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